

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal No. 2007-17
)	
SANDRA YVONNE BUCKERIDGE,)	
)	
Defendant.)	
_____)	

ATTORNEYS:

Ishmael A. Meyers, Jr., AUSA
St. Croix, U.S.V.I.
For the Plaintiff.

Jesse A. Gessin, AFPD
St. Thomas, U.S.V.I.
For the Defendant.

ORDER

GÓMEZ, C.J.

Before the Court is the motion of the defendant, Sandra Yvonne Buckeridge ("Buckeridge"), for judgment of acquittal pursuant to Rule 29 of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P."), a new trial pursuant to Fed. R. Crim. P. 33, and an arrest of judgment pursuant to Fed. R. Crim. P. 34.

I. FACTS

During Carnival week, 2006, Natasha V. Massicot ("Massicot") parked her car on a street in St. Thomas, U.S. Virgin Islands.

After walking away from her car, Massicot realized that she had forgotten her purse in the car. When she returned to her car, she found that her purse was no longer inside. Her birth certificate and social security card were in her purse. Massicot later reported the documents stolen.

On March 9, 2007, Buckeridge presented herself to a Customs and Border Protection ("CBP") agent at the Cyril E. King Airport on St. Thomas. Buckeridge presented a driver's license and birth certificate to the CBP agent. These documents bore the name Natasha V. Massicot, but the driver's license bore Buckeridge's photograph. Buckeridge also presented a customs declaration, signed, "Natasha V. Massicot." The CBP agent and a colleague thereafter searched Buckeridge's bag, and found a social security card inside bearing Massicot's name. The agents also found an unofficial personal identification card bearing Massicot's name and Buckeridge's photograph. When the agents asked the woman who she was, she replied that her name was Sandra Buckeridge.

The four-count indictment alleged that Buckeridge (1) possessed an identification document other than one issued lawfully for her use, with the intent that such document be used to defraud the United States; (2) knowingly and willfully made false statements and representations to a United States CBP agent; (3) falsely and willfully represented herself to be a

United States citizen when in fact she was a citizen of Jamaica; and (4) knowingly possessed and used a means of identification of another person during the personation of false citizenship.

The jury convicted Buckeridge of all four counts alleged in the indictment. Buckeridge now argues that (1) the evidence at trial was insufficient to convict her of any of the counts alleged in the indictment, and (2) with respect to Count IV of the indictment, defense counsel requested a judgment of acquittal and a jury instruction regarding the requirement of Buckeridge's knowledge of the authenticity of the documents.

II. DISCUSSION

A. Rule 29 Judgment of Acquittal

For a judgment of acquittal to be granted, the court must decide, as a matter of law, that the evidence presented at trial was insufficient to support the conviction. *United States v. Cohen*, 455 F. Supp. 843, 852 & n. 7 (E.D. Pa. 1978), *aff'd*, 594 F.2d 855 (3d Cir.), *cert. denied*, 441 U.S. 947 (1979). In making that determination, the trial court is required to view the evidence in the light most favorable to the prosecution and to draw all reasonable inferences therefrom in the government's favor. *United States v. Ashfield*, 735 F.2d 101, 106 (3d Cir.), *cert. denied*, 469 U.S. 858 (1984).

"Strict deference [must] be accorded the jury's findings; the court does not 'ask itself whether it believes that the evidence at the trial established guilt beyond a reasonable doubt.'" *United States v. Charles*, 949 F. Supp. 365, 367, 35 V.I. 306 (D.V.I. 1996). The inquiry to be made is whether, in light of the evidence, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. See *id.* (citing *Ashfield*, 735 F.2d at 106) (noting "[o]ur task is not to decide what we would conclude had we been the finders of fact; instead, we are limited to determining whether the conclusion chosen by the [fact-finders] was permissible"). A trial court has the duty to grant a judgment of acquittal "when the evidence is so scant that the jury could only speculate as to the defendant's guilt." *United States v. Bazar*, Crim. No. 2000-80. 2002 U.S. Dist. LEXIS 19719, *6 (D.V.I. Oct. 7 2002).

B. Rule 33 Motion for a New Trial

When deciding a Rule 33 motion for a new trial, the court is provided somewhat more discretion than what is afforded under Rule 29. Under Rule 33, the court may grant a new trial "in the interest of justice." *United States v. Charles*, 949 F. Supp. 365, 368, 35 V.I. 306 (D.V.I. 1996). In assessing such "interest," the court may weigh the evidence and credibility of witnesses. *United States v. Bevans*, 728 F. Supp. 340, 343 (E.D. Pa. 1990),

aff'd, 914 F.2d 244 (3d Cir. 1990). If the court determines that there has been a miscarriage of justice, the court may order a new trial. *Id.* The burden is on the defendant to show that a new trial ought to be granted. *United States v. Clovis*, Crim. No. 94-11, 1996 U.S. Dist. LEXIS 20808, at *5 (D.V.I. Feb. 12, 1996).

C. Rule 34 Motion for Arrest of Judgment

The court can grant a motion to arrest judgment only if the verdict, judgment or plea of guilty is insufficient as a matter of law for two reasons: "the indictment or information does not charge an offense [or] the court does not have jurisdiction of the charged offense." Fed. R. Crim. P. 34; *see also Bazar*, 2002 U.S. Dist. LEXIS 19719, *13.

In deciding a Rule 34 motion, "A court may not look beyond the face of the 'record' which consists of 'no more than the indictment, the plea, the verdict . . . when the plea is "not guilty" . . . and the sentence'" *United States v. Stolon*, 555 F. Supp. 238, 239 (E.D.N.Y. 1983) (quoting *United States v. Bradford*, 194 F.2d 197, 201 (2d Cir. 1952)); *see also United States v. Diaz*, Crim. No. 92-78, 1993 U.S. Dist. LEXIS 3569, at *5 (E.D. Pa. Mar. 25, 1993) ("A Rule 34 motion must be based solely on a defect apparent on the face of the indictment itself, and not on the sufficiency of the evidence adduced at trial.") (citing *United States v. Sisson*, 399 U.S. 267, 280-81 (1970))).

III. ANALYSIS

Buckeridge's Rule 29 motion is a renewal of two Rule 29 motions she made at trial, first at the close of the government's evidence and again at the close of the defense's evidence. After considering the evidence presented at trial in a light most favorable to the government, the Court ruled that there was sufficient evidence for a rational jury to find Buckeridge guilty beyond a reasonable doubt of all four offenses alleged in the indictment. (Transcr. at 97-99, 129). The Court further found that the jury instruction as to Count IV was appropriate under the circumstances. (Transcr. at 129-31). For reasons more fully stated on the record, the Court now reaffirms these findings. Accordingly, the Court will deny Buckeridge's renewed Rule 29 motion.

In light of the Court's determination that there was sufficient evidence for a rational jury to find Buckeridge guilty of all four counts alleged in the indictment, the Court finds that there has been no miscarriage of justice to warrant a new trial under Rule 33.

Finally, the indictment charges crimes over which this Court has jurisdiction. The Court will therefore deny Buckeridge's motion under Rule 34.

IV. CONCLUSION

For the foregoing reasons and reasons stated more fully on the record, it is hereby

ORDERED that Buckeridge's motion is **DENIED**.

DATED: October 22, 2007

S_____
Curtis V. Gómez
Chief Judge

Copies to: Hon. Geoffrey W. Barnard
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